IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FIFTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION No. 20286 of 2005

Between:

M/s. BASF India Ltd.

A Company incorporated under Companies Act,

having its Registered Office at
one of its Branch Offices At Himayatnagar,

Hyderabad, Rep by Customer Service Executive,

P. Valsarajan

..... PETITIONER

AND

The Commissioner & Director Agriculture

Andhra Pradesh, Hyderabad and another

.....RESPONDENTS

ORDER:

Challenging the memos issued by the 1st respondent dated 27.04.2005 and 20.08.2005 in imposing ban on supply and sale of Synthetic Pyrethroids to the stockiests/distributors/dealers initially till 31.08.2005, and thereafter extended till 15.10.2005, the present writ petition is filed.

Heard the learned counsel for the petitioner and the learned Government Pleader for Agriculture.

The learned counsel for the petitioner contended that both the impugned proceedings are passed completely in violation of Section 27 of the Insecticides Act, 1968 and therefore, they are liable to be set aside.

On the other hand, the learned Government Pleader for Agriculture contended that since the impugned proceedings are passed with the consent of both the parties, they do not suffer from any infirmities.

By virtue of proceedings dated 27.04.2005, the sale and supply of Synthetic Pyrethroids are prohibited from 01.05.2005 to 31.08.2005 in the State of Andhra Pradesh, and therefore, the District Joint Directors of Agriculture are instructed to ensure personally that no stocks of Synthetic Pyrethroids are left over with the dealers/distributors after 01.05.2005. By virtue of proceedings dated 20.08.2005, again the

1st respondent extended the ban on sale and supply of Synthetic Pyrethroids till 15.10.2005.

Under Section 27 of the Insecticides Act, 1968, i*f, on receipt of a report under Section 26 or otherwise, the Central Government or the State Government is of*

opinion, for reasons to be recorded in writing, that the use of any insecticide specified in Clause(e) of Section 3 or any specific batch thereof is likely to involve such risk to human beings or animals as to render it expedient or necessary to take immediate action then that Government may, by notification in the official Gazette, prohibit the sale, distribution or use of the insecticide or batch, in such area, to such extent and for such period, not exceeding sixty days, as may be specified in the notification pending investigation into matter. It also provided that where the investigation is not completed within the said period, the Government may extend the period of ban not exceeding thirty days in aggregate.

In view of the proviso under Section 27 of the Insecticides Act, 1968, the 1st respondent, before imposing the ban on insecticides, has to follow the procedure and also take into consideration of three conditions, firstly, the insecticides specified would likely to involve the risk to human beings or animals; secondly, record the reasons for imposing of ban; and thirdly, publish such notification in the official Gazette. None of these conditions has been followed by the 1st respondent in issuing the impugned proceedings. Therefore, the impugned proceedings are liable to be set aside.

Accordingly, the Writ Petition is allowed, and the impugned proceedings dated 27.04.2005 and 20.08.2005 are set aside. However, this order will not preclude the competent authority to impose ban, as provided under Section 27 of the Insecticides Act, 1968. No order as to costs.

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K.C. BHANU,J

Dated: 15.09.2005

Dsr